

1 GOVERNMENT  
2 OF  
3 THE DISTRICT OF COLUMBIA

4  
5 + + + + +

6  
7 ZONING COMMISSION

8  
9 + + + + +

10  
11 REGULAR MEETING  
12 1164rd MEETING SESSION (8th OF 2004)

13  
14 + + + + +

15  
16 MONDAY  
17 MAY 10, 2004

18  
19 + + + + +

20  
21 The Regular Meeting of the District of Columbia Zoning  
22 Commission convened at 6:30 p.m. in the Office of Zoning Hearing Room at 441 4th  
23 Street, Northwest, Washington, D.C., Carol J. Mitten, Chairperson, presiding.

24  
25 ZONING COMMISSION MEMBERS PRESENT:

26  
27 CAROL J. MITTEN Chairperson  
28  
29 ANTHONY J. HOOD Vice Chairman  
30  
31 KEVIN HILDEBRAND Commissioner  
32  
33 GREGORY JEFFRIES Commissioner  
34  
35 JOHN G. PARSONS Commissioner

36  
37 OFFICE OF ZONING STAFF PRESENT:

38  
39 ALBERTO P. BASTIDA Secretary, Zoning Commission  
40  
41 SHARON SCHELLIN Office of Zoning

42  
43 OFFICE OF PLANNING STAFF PRESENT:

44  
45 ELLEN McCARTHY Deputy Director,  
46  
47 MAXINE BROWN-ROBERTS Office of Planning  
48  
49 JENNIFER STEINGASSER Office of Planning

50  
51 D.C. OFFICE OF CORPORATION COUNSEL:

52  
53 ALAN BERGSTEIN, ESQ.  
54  
55 SHERRY GLAZER, ESQ.

I N D E X

1  
2  
3 Correspondence  
4  
5           A. Letter from Advisory Commission 2A regarding  
6           Case No. 03-29 ..... 5  
7  
8 Proposed Action  
9  
10        A.     Z.C. Case No. 03-16 (Watergate Hotel)           ..... 6  
11  
12  
13 Hearing Action  
14  
15        A. Z.C. Case No. 03-27 (4600 Brandywine  
16        Associates, LLC - Consolidated PUD &  
17        Related Map Amendment at 4600 Wisconsin  
18        Avenue, N.W.) ..... 13  
19  
20        B. Z.C. Case No. 04-08/02-45 (D.C. Department  
21        of Mental Health - 2nd Stage PUD & Map  
22        Amendment - St. Elizabeth's Hospital)           ... 26  
23  
24 Final Action  
25  
26        A. Z.C. Case No. 03-03/02-05, second stage  
27        approval for the Capitol Gateway PUD           ... 19  
28  
29        B. Z.C. Case 03-29, approval for the PUD for  
30        New Residence Hall at G.W. University           ... 22  
31  
32 Status Report, Office of Planning ..... 33  
33  
34 Adjourn ..... 39  
35  
36  
37

PROCEEDINGS

6:36 P.M.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen.

This is the May 10, 2004 Public Meeting of the Zoning Commission of the District of Columbia. My name is Carol Mitten and joining me this evening are Vice Chairman Anthony Hood and Commissioners John Parsons, Greg Jeffries and Kevin Hildebrand.

Copies of today's meeting agenda are in the wall bin near the door if you would like to get a copy. I'm going to be changing the order around in just a minute.

I would like to remind those present that we do not take any public testimony at our meetings unless the Commission specifically requests someone to come forward.

Please be advised that this proceeding is being recorded by a court reporter, as well as being webcast live. Accordingly, we must ask you to refrain from making any disruptive noises or actions in the Hearing Room.

Please turn off all beepers and cell phones at this time so as not to disrupt this meeting.

Mr. Bastida, do you have any preliminary matters?

MR. BASTIDA: Madam Chairman, the Staff has no preliminary matters, thank you.

CHAIRPERSON MITTEN: All right, then I will apologize in advance for the fact that I need to leave around 7:15 and because of that we're going to rearrange a few things on the agenda.

The first thing we'll do is take up the piece of correspondence and we will move to our proposed action on the Watergate Hotel. Then we will proceed to take hearing action on Zoning Commission Case No. 03-27. We'll take final action on the two cases on the agenda and then the last item will be the proposed 2nd Stage PUD for St. Elizabeth's.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 [www.nealrgross.com](http://www.nealrgross.com)

1                               So the first item then is the letter from Advisory Commission 2A  
2                               regarding Case No. 03-29 which is on for final action tonight and I would like to  
3                               move that we re-open the record to accept the letter from the ANC's attorneys since  
4                               it appears that I erred in not allowing their attorney to speak at the hearing and  
5                               address a particular matter that is addressed in the letter and I would move that we  
6                               re-open the record so that we can consider this when we take final action.

7                               MR. PARSONS: Second.

8                               CHAIRPERSON MITTEN: Any discussion? All those in favor,  
9                               please say aye.

10                              (Ayes.)

11                              Those opposed, please say no.

12                              (No response.)

13                              Ms. Schellin?

14                              MS. SCHELLIN: Staff will record the vote 4 to 0 to 1 to reopen  
15                              the record in Case No. 03-29 to accept a filing discussed. Commissioner Mitten  
16                              moving; Commissioner Parsons seconding; Commissioners Hildebrand and Parsons  
17                              in favor; Commissioner Jeffries, not voting not having heard the case.

18                              CHAIRPERSON MITTEN: Thank you. Then the next item  
19                              would be the proposed action for Case No. 03-16 which is the proposed PUD  
20                              modification for the Watergate Hotel.

21                              Mr. Bastida, did you have anything by way of introduction for us?

22                              MR. BASTIDA: Yes, Madam Chairman. The Staff has provided  
23                              you with all the filings provided to the record and requests that the Commission  
24                              makes a decision on the matter.

25                              CHAIRPERSON MITTEN: All right, there is one item that is in  
26                              the record before us that I would like to move be stricken from the record and this is  
27                              the filing of proposed findings of fact and conclusions of law by Frederick and Jill  
28                              Schwartz inasmuch as they were not given party status in the case. That  
29                              submission was not appropriately accepted into the record and I would move that it

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433    WASHINGTON, D.C. 20005-3701    www.nealrgross.com

1 be stricken.

2 MR. BASTIDA: Madam Chairman, the Staff would do that.

3 CHAIRPERSON MITTEN: Do we need to vote on it or not?

4 MR. BASTIDA: Not really because they were not a party.

5 Accordingly, by the rules of the game, they cannot really submit it.

6 CHAIRPERSON MITTEN: All right. Then I will withdraw my  
7 motion and then just let that stand on its own.

8 So we have the final submissions and we have the closing  
9 remarks and so forth and then we have proposed findings of fact and conclusions of  
10 law from the applicant as well as parties in opposition.

11 And what I have found interesting about this case is that the  
12 burden of proof for meeting the test, the balancing test that's required by the PUD  
13 has been defined by the various parties differently and I think it's important that we  
14 understand what we are balancing against. I do not find for myself that it's up to the  
15 applicant to prove that the hotel is not viable.

16 I think that what we are required to balance amenities and  
17 benefits against is the degree of relief being sought and the underlying project does  
18 not reflect substantial relief, if any, from the matter of right provisions in the SP-2  
19 zone and in fact, the hotel use that exists that the applicant proposes to replace with  
20 residential is not a favored use in the SP zone because it's permitted by special  
21 exception. So what they're asking to do is to take a more favored use, one that's  
22 permitted as a matter of right and replace it with one that is not currently a favored  
23 use in the SP zone. And I find that that is the kind of thing we should be looking at,  
24 not whether or not the hotel is viable or not.

25 And then I look at the degree of relief being sought through this  
26 modification which is relatively minor after the use question is settled and deals with  
27 modifications to -- minor modifications to the roof and the addition of the carports  
28 and the replacement of some structured parking with surface parking and I think the  
29 amenities that are being proffered are more than adequate to satisfy that minor relief

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 [www.nealrgross.com](http://www.nealrgross.com)

1 and that the fact that they have offered to retain those two aspects of the hotel that  
2 seem to be most important to the community that give them sort of the routine  
3 access into the project, the health club and the restaurant, will be retained. And I  
4 find that they've met the test that's required for the modification.

5 Anyone else have comments or I can move approval if it won't  
6 stop discussion?

7 MR. PARSONS: I agree with everything you just said and I  
8 would second that motion.

9 MR. HOOD: I don't think we have -- seeing the phrase that is a  
10 motion, I'm just concerned -- I'm not cutting you off, Mr. Parsons --

11 MR. PARSONS: Yes, you are.

12 (Laughter.)

13 MR. HOOD: I'm trying to be nice. I really think and I want to  
14 make sure that I move in the right way. Actually, I really am perplexed by this case.  
15 I think the opponents have some issues that I think were very -- they at least made  
16 me stop and think. One of them is we're not supposed to be inconsistent with the  
17 comprehensive plan and I bought Mr. Oberlander's argument when he said I think  
18 Ward 2 comprehensive plan, the way I understand it, consists of preserving, saving  
19 the hotel use. And I'm not sure if we would be doing what we're not supposed to be  
20 doing being inconsistent with the comp. plan if we were to just overlook that fact.

21 So that's kind of where I'm -- I'll stop there. I don't know if  
22 anybody wants to have any more discussion, but unless I can get over that hurdle, I  
23 will be voting against this.

24 CHAIRPERSON MITTEN: Well, perhaps if I could just take a  
25 minute to attempt to persuade you which is the reason why I mentioned the fact that  
26 hotel use is not a favored use in SP-2 is, as we know from our experience here, you  
27 can always isolate one aspect, one phrase, one policy of the comprehensive plan  
28 and emphasize that to the exclusion of other policies. And there are numerous  
29 policies that are advanced through the comprehensive plan and one is to promote

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 [www.nealrgross.com](http://www.nealrgross.com)

1 more housing. And especially in this area where there is a concern about the  
2 transiency of the people that live in Foggy Bottom, the idea that we could introduce  
3 more permanent housing, I think, has special relevance here.

4 But then if you go back to the fact that within the SP zone we're  
5 not -- we don't allow hotels as a matter of right, then I think that that -- because we're  
6 supposed to pay greater attention to the land use element than others, I think the  
7 Commission of the past has spoken to say this particular area that we have zoned  
8 SP 2 is not one where we would apply that, where we would make that particular  
9 place, that particular emphasis.

10 MR. HILDEBRAND: I'd just like to add to that too that I think that  
11 we have to look at Washington in a broad context too. We are a tourist city and we  
12 want to attract the tourist market to Washington and having hotel rooms available is  
13 a viable use.

14 I'm not sure exactly when the hotel use became a special  
15 exception under SP-2, but I don't know that that pre-dated the creation of the SP-2.  
16 I don't know that they came in tandem and perhaps this hotel being there was part of  
17 the consideration given in deciding not to allow more hotel use in SP-2 as a matter  
18 of right.

19 MR. PARSONS: I think one of the most persuasive parts of this  
20 to me is that the community has identified the importance of the amenities of this  
21 hotel as an asset to them and a sense of community and I'm being redundant to  
22 your comments, but the fact that they're retaining the health club and the restaurant  
23 is the amenity that the residents rely on, if you will, and not the coming and going of  
24 transients. So I am being repetitive, but if my colleagues need me to be repetitive, I  
25 will.

26 MR. HOOD: I believe we're also look at 243.8 and judging  
27 balance and reconciling and I was the one who -- was one of the ones who asked  
28 about the affordable housing commitment and not putting a dollar value on it, but I  
29 really don't think that that is in line or in tune with I believe should happen. Actually,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 [www.nealrgross.com](http://www.nealrgross.com)

1 it should be on site. And that's what I meant, not in Ward 1, not in Ward 5 -- not  
2 Ward 5, but actually, it should be on site. So that's another issue that I have. While  
3 I appreciate the applicant offering the affordable housing commitment, the \$250,000  
4 for something that's going to be almost worth \$3 million per condo or apartment or  
5 whatever the issue is, I think is definitely not a balance. So those are some issues I  
6 have. Madam Chairman, again, as I stated, I will be voting against this.

7 CHAIRPERSON MITTEN: Okay.

8 MR. PARSONS: Did you want to make a motion?

9 CHAIRPERSON MITTEN: I would. I would like to make a  
10 motion. I move that we approve Case No. 03-16. Would you like to second that  
11 motion?

12 MR. PARSONS: I would second that motion.

13 CHAIRPERSON MITTEN: Is there any further discussion?

14 All those in favor, please say aye.

15 (Ayes.)

16 Those opposed, please say no.

17 MR. HOOD: Opposed.

18 CHAIRPERSON MITTEN: Ms. Schellin.

19 MS. SCHELLIN: Staff records the vote as 3 to 1 to 1.

20 Commissioner Mitten making the motion to approve Case No. 03-16; Commissioner  
21 Parsons seconding; Commissioner Hildebrand in favor; Commissioner Hood against  
22 the motion; and Commissioner Jeffries not voting having not participated.

23 CHAIRPERSON MITTEN: Thank you. We'll move next to the  
24 first item under Hearing Action which is Case No. 03-27 and this is a revised  
25 application from 4600 Brandywine Associates LLC.

26 Ms. McCarthy?

27 MS. McCARTHY: Thank you, Madam Chair. This project  
28 proposes to redevelop what is now a billiard parlor to 42 condominium apartments  
29 with ground floor retail space and 44 off-street garage parking spaces.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

1                               As you know, when the project came the last time for review the  
2 Commission had expressed some concern about the location of the affordable units  
3 and the lot occupancy which was almost 100 percent. So the applicants have  
4 submitted a substantially revised package in which the underlying zoning there  
5 requested went from C2B back to the C2A which is the current underlying zoning -- I  
6 mean the underlying zoning stayed the same, but they are no longer requesting a  
7 change from the underlying zoning.

8                               The proposed lot occupancy went from 92 percent to 60 percent  
9 which is in compliance with the C2A and the FAR went from 4.32 to 2.87 which is  
10 less than the three FAR which is permitted for PUDs in the C2A zone.

11                              In short, the flexibility of the applicant is requesting is minimum.  
12 Basically comes to a little more than 6,000 square feet above what is permitted as a  
13 matter of right and a reduction of the recreation space on site from 20 percent to  
14 16.6 percent.

15                              In exchange for that relatively minor amount of flexibility, the  
16 applicant is proffering \$75,000 to the Janney School PTA for the replacement of the  
17 wooden play equipment on the lower playground and additional play equipment for  
18 older students including necessary storm water management and soil erosion  
19 measures at Janney; \$25,000 to the Friends of the Tenley Library for a state-of-the-  
20 art audio visual room. When the library is renovated, they will do the interior and  
21 make the A/V room state-of-the-art. \$20,000 for Wilson Senior High School for  
22 repairs of the buildings, including repainting of the cupola; \$15,000 to Friends of Fort  
23 Bayard Park to help fund the renovation and rehabilitation of Fort Bayard as  
24 approved by the National Parks Service; \$47,427 to the D.C. Fire Department for the  
25 purchase of a Hazardous Materials Pod for use by the Fire Department; and then  
26 the provision of one affordable housing unit within the proposed building. The  
27 number of affordable units has decreased from three to one reflecting the  
28 substantially reduced amount of bonus FAR that is achieved by the proposal.

29                              So in short, the Office of Planning feels that the design which

1 has improved substantially, it offers a plaza in between -- in the back of this building  
2 in between the proposed building and the animal hospital and the residences which  
3 are beyond the animal hospital and as a result of that garden is able to substantially  
4 or has substantially reduced the lot occupancy and the visual intrusion of the  
5 building for the residential, the three houses that are on the remainder of the square.  
6 Because the amount of flexibility requested is minimal and because the amenity  
7 package is very strong, the Office of Planning would recommend setting down this  
8 project for public hearing.

9 We also recognize in looking at the Commission's action the last  
10 time, that the zoning regulations do contain, in effect, a presumption in favor of  
11 setting down cases for public hearing, sort of a presumption in favor of every project  
12 having its day in Court by virtue of requiring an absolute majority of the full  
13 Commission to deny set down, but only a majority of the Commission Members that  
14 are sitting to approve set down. So we take that cue from zoning regulations and we  
15 feel that this project deserves an opportunity to have a public hearing and to assess  
16 the benefits and the flexibility requested, so we would recommend set down for this  
17 case.

18 CHAIRPERSON MITTEN: Thank you. Questions or comments  
19 for Ms. McCarthy?

20 Mr. Hildebrand?

21 MR. HILDEBRAND: Would you go over the FAR and the  
22 recreational space requirements again for me? I just want to make sure that I've  
23 gotten my notes written down correctly.

24 MS. McCARTHY: Sure. The C2A requires 20 percent of the  
25 space to be provided for recreation space and the project is proposing 16.6 percent  
26 of which -- I don't have in front of me what percentage is outdoor recreation space,  
27 but it is fairly substantial because of the size of the garden.

28 MR. HILDEBRAND: They're actually asking for quite a bit of  
29 relief on that because they're including the private balconies for the units and the

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

1 roof terrace which doesn't meet the minimum 25 foot dimension in order to get that  
2 count, is that correct?

3 PARTICIPANT: They did include that in the total that they put on  
4 their plan for the residential recreation space, however, they are requesting that a  
5 variance be granted in order to reduce the amount necessary so that they can do  
6 that.

7 MR. HILDEBRAND: Thank you. That's what I was thinking, but  
8 I didn't hear it mentioned as one of the things that they were looking for flexibility on.  
9 I wanted to make sure I understood that correctly.

10 MS. McCARTHY: And then you also asked about the FAR?

11 MR. HILDEBRAND: Yes.

12 MS. McCARTHY: And in the C2A District as a matter of right,  
13 2.5 FAR is permitted. The PUD in the C2A permits 3.0 FAR and they are requesting  
14 2.87.

15 MR. HILDEBRAND: Maybe my chart is just wrong because in  
16 my chart on D1, they're asking for 3.0.

17 MS. McCARTHY: I'm sorry, it's 2.87 residential and then the  
18 remaining .37 -- I'm sorry. .13 is the retail, ground floor retail.

19 MR. HILDEBRAND: Okay. So they are going for the full 3?

20 MS. McCARTHY: Yes, I'm sorry. I was looking at the wrong  
21 column here, yes.

22 CHAIRPERSON MITTEN: Any other comments?

23 MR. PARSONS: Other than to say it's been very responsive to  
24 the dilemma we found ourselves in the first time around, so I would move that we  
25 approve to set this down.

26 MR. HOOD: I'll second that.

27 CHAIRPERSON MITTEN: We have a motion and a second, any  
28 further discussion?

29 MR. HILDEBRAND: Can I just add too that I want to also state

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

1 with Commissioner Parsons that I think there's been a vast improvement in the  
2 massing of the building on the site and I would applaud the applicant for taking that  
3 into consideration.

4 CHAIRPERSON MITTEN: Anyone else? All those in favor,  
5 please say aye.

6 (Ayes.)

7 Those opposed, please say no.

8 Ms. Schellin?

9 MS. SCHELLIN: Staff will record the vote 5 to 0 to 0 to approve  
10 the set down for Case No. 03-27. Commissioner Parsons moving; Commissioner  
11 Hood seconding; Commissioners Hildebrand, Mitten and Jeffries in favor.

12 CHAIRPERSON MITTEN: Thank you. Now we'll skip ahead to  
13 final action and the first item is Case No. 03-03/02-05 which is the second stage  
14 approval for the Capitol Gateway PUD.

15 We haven't seen a proposed order on this yet, have we?

16 MR. BASTIDA: I just handed --

17 CHAIRPERSON MITTEN: I didn't get that.

18 MR. BASTIDA: I e-mailed it to you, I think.

19 CHAIRPERSON MITTEN: Okay, well.

20 MR. BASTIDA: Madam Chairman, I am sorry. I would like to  
21 state for the record that a few minutes ago we received a fax from the National  
22 Capitol Planning Commission in which they took action that there would not be an  
23 adverse federal impact on this project. Thank you.

24 CHAIRPERSON MITTEN: Okay. Right under the wire, right?

25 MR. BASTIDA: Yes. And the same thing for the George  
26 Washington University PUD is the same action by the NCPC.

27 CHAIRPERSON MITTEN: Okay.

28 MR. BASTIDA: Okay?

29 CHAIRPERSON MITTEN: Thank you.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 [www.nealrgross.com](http://www.nealrgross.com)

1 MR. BASTIDA: Thank you, Madam Chairman.

2 CHAIRPERSON MITTEN: Well, I guess we have a proposed  
3 order in front of us which I have not seen, so if it captures the spirit of what we  
4 approved on proposed action, then I would move approval of Case No. 03-03/02-05,  
5 giving some latitude for editorial changes to the proposed order and finding that the  
6 degree of flexibility requested is balanced appropriately by the amenities and  
7 benefits being proffered and that there are no adverse impacts that have not been  
8 adequately mitigated.

9 MR. BASTIDA: Madam Chair, I will second the motion only to  
10 say though I would hope that when it's tweaked or touched up a little bit that it  
11 reflects -- I didn't see the acquisition of the homes reflected anywhere in here and I  
12 believe there were homes that were acquired by the Housing Authority and I may  
13 have missed it, it may be in here, but at least I didn't see it in this order and it needs  
14 to reflect that that is in this order.

15 MR. PARSONS: You mean the findings of fact?

16 MR. HOOD: Somewhere in the findings of fact it should be  
17 reflected. I may have missed it, but I looked for that purposely and I did not see it.

18 CHAIRPERSON MITTEN: We'll make sure that that gets  
19 included.

20 MR. HOOD: Thank you.

21 CHAIRPERSON MITTEN: We have a motion and a second to  
22 approve the second stage PUD for Capitol Gateway. Any further discussion?

23 All those in favor, please say aye.

24 (Ayes.)

25 I believe we have none in opposition, if I heard correctly.

26 MS. SCHELLIN: Staff will record the vote 4 to 0 to 1 to approve  
27 Case No. 03-03 and the motion was made by Commissioner Mitten; seconded by  
28 Commissioner Hood. In favor, Commissioners Hildebrand and Parsons and  
29 Commissioner Jeffries not voting, having not heard the case.

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS  
1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 www.nealrgross.com

1 CHAIRPERSON MITTEN: Thank you. Then the next case for  
2 final action is Case No. 03-29 and I want to make sure that everyone has had a  
3 chance to read the letter that we accepted into the record. And we also, I would  
4 note that we have in the proposed order, we had reopened the record to ask the  
5 University to propose conditions in specific response to some issues that we had  
6 raised and we now have those in front of us as conditions 6, 7 and 8.

7 (Pause.)

8 Has everyone had a chance to read the letter and take a look at  
9 the conditions?

10 All right, then I would move approval of Case No. 03-29.

11 MR. PARSONS: Second.

12 CHAIRPERSON MITTEN: All right, we have a motion and a  
13 second to approve the PUD for the new residence hall at G.W.

14 Is there any further discussion? All those in favor, please say  
15 aye.

16 (Ayes.)

17 None opposed, Ms. Schellin.

18 MS. SCHELLIN: Staff would record the vote 4 to 0 to 1.

19 Commissioner Mitten moving to approve Case No. 03-29; Commissioner Parsons  
20 seconding and Commissioners Hildebrand and Hood in favor. Commissioner  
21 Jeffries not voting, having not heard the case.

22 CHAIRPERSON MITTEN: Thank you.

23 MS. SCHELLIN: Excuse me, Madam Chair, before we go  
24 further, can we just go back to confirm that Case No. 03-27 will be a contested  
25 case?

26 CHAIRPERSON MITTEN: Yes, it's a PUD, yes, absolutely.

27 MS. SCHELLIN: Thank you.

28 CHAIRPERSON MITTEN: Okay, before we move to the second  
29 item under Hearing Action, Mr. Hood has an item that he wants to discuss that I

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

1 think -- I think we can do it on the dais.

2 MR. HOOD: Just very quickly. I guess Mr. Bastida can inform  
3 me of where we are. I had the opportunity to sit on a case with the BZA where we're  
4 dealing with a college use. And I thought it was better served in front of the Zoning  
5 Commission. I kind of wanted to see when the order was going to be written and  
6 Mr. Bastida is supposed to alert me. And I wanted to bring it to the Commission and  
7 I wanted us to kind of get a feel for what my colleagues think whether that was better  
8 served in front of us which I thought it should have been or should that remain  
9 before the Board of Zoning Adjustment.

10 CHAIRPERSON MITTEN: What section were they coming in  
11 under?

12 MR. HOOD: Off the top of my head --

13 CHAIRPERSON MITTEN: If you don't quote the precise section,  
14 if they weren't coming in under the campus plan section which is where university  
15 use would be included, what were they characterizing the use as?

16 CHAIRPERSON MITTEN: I believe, Madam Chair, I thought we  
17 took over all special exceptions in variances when it pertained to college institutions  
18 and campuses. I believe that's where we were. Don't quote me for it, but I was just  
19 remembering the argument. I thought it was better served in front of the Zoning  
20 Commission.

21 I'm sorry I can't give you verbatim, but I wanted to put everybody  
22 on notice and like I told them, if I'm incorrect, I stand to be corrected.

23 MR. BERGSTEIN: Madam Chair, I think I can help out here. In  
24 the special exception, the school which was Marquette University, requested a  
25 special exception, actually renewal of a special exception under the private school  
26 regulations. I've received a draft summary order from the applicant and we're  
27 reviewing it now. So the Office of Zoning has not yet received our either blessing or  
28 revision of that order. So that's where it is, Mr. Hood.

29 CHAIRPERSON MITTEN: May I ask if you recall, Mr. Bergstein,

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

1 if they came in under private school, were they, in fact, was it just a coincidence that  
2 it was a university operating a private school or was this an actual university use?

3 MR. BERGSTEIN: What happened was that when they first  
4 came in and requested the special exception, the BZA at that time had authority to  
5 approve either and it was self-certified. So the original BZA order noted that it came  
6 in self-certified as a private school that the BZA was not going to second guess the  
7 characterization of the use and would approve it with the understanding that if they  
8 turned out to be wrong, the matter could be appealed to the BZA and it was not.

9 So then when the jurisdiction changed between the BZA and the  
10 Zoning Commission, this issue arose again in the current renewal of the application  
11 which was again self-certified and it's that context that Mr. Hood raised the issue.

12 CHAIRPERSON MITTEN: Okay. Well, I think what it turns on is  
13 actually what they were doing in the facility, so if it is a university use then I think  
14 that's something we need to take a hard look at.

15 MR. HOOD: The only reason, Madam Chair, I raise the issue  
16 because I'm sure there are going to be other cases that will come down the pike and  
17 I would rather for us to proceed with caution as opposed to just having some  
18 haphazard open house and do what you want, so that's where I am.

19 CHAIRPERSON MITTEN: Thank you. All right, we have one  
20 item left on the agenda which is -- well, we actually have two, including the Office of  
21 Planning Status Report which will come last, but not least. And the second item  
22 under Hearing Action which is Case No. 04-08/02-45 which is the second stage  
23 PUD and map amendment for St. Elizabeth's Hospital. I will be recusing myself from  
24 that case because I expect my office to become involved. So Mr. Hood will take  
25 over from here.

26 And you have the gavel.

27 MR. HOOD: It's been a while since I had it, thank you, Madam  
28 Chair.

29 Next, we're going to proceed with Hearing Action, Zoning

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

1 Commission Case No. 04-08/02-45, as the Chair stated, the D.C. Department of  
2 Mental Health. This is the Second Stage PUD and Map Amendment of St.  
3 Elizabeth's Hospital.

4 Office of Planning, Ms. Brown-Roberts?

5 MS. BROWN-ROBERTS: Good evening, Mr. Chairman, and  
6 Members of the Commission. The St. Elizabeth's Hospital campus is a 336 acre  
7 national historic landmark, established in 1855. The majority of the property is  
8 currently vacant except for the John Howard Forensic Pavilion.

9 The Department of Mental Health is consolidating the hospital on  
10 the east campus in a new 293-bed hospital building that will replace the existing  
11 John Howard Pavilion that will be demolished.

12 The proposed hospital will be a state-of-the-art mental health  
13 facility to serve the District's mental health needs and will incorporate the newest  
14 ideas and innovation in institutional design for mental health and care.

15 The building is designed and will be an integral part of the  
16 function of the hospital and secure and non-secure patients are treated. The  
17 applicant obtained approval for the first stage PUD in Zoning Commission Order  
18 0245 on November 28, 2003 and has now submitted the second stage PUD for  
19 review. The submissions include improved detail plans regarding the architectural  
20 design of the building and floor plans, landscaping access, parking, and storm water  
21 management. The applicant has made some changes to the plan, some of which  
22 were in response to the Zoning Commission in the first stage application. The  
23 changes include a redesign of a portion of the secure wing of the building from one  
24 story to two stories to reduce its impact on the U.S. Naval Station Building and place  
25 a District of Columbia antenna tower outside of the secure parameter; removal of the  
26 mechanical and electrical units from the basement of the building into an above-  
27 grade building that will also minimize the view into the loading area; increasing the  
28 height of the building by two feet in order to minimize grading and the use of  
29 retaining walls; revision of the storm water management plan to include a storm

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

1 water management pond; and a circulation and parking plan for use during  
2 construction period as well as for the completed project.

3 The second stage PUD complies with most of the guidelines,  
4 standards and conditions of the first stage PUD. OP and the applicant will continue  
5 discussions to improve the proposal and we have requested the following  
6 information prior to a public hearing: details on the proposed storm water  
7 management system, stating why a change was made from the proposed stage 1  
8 plan; sample building materials and elevation; details on the number of parking  
9 spaces that will be available in the alternative parking location during construction  
10 and incorporation of a policy to encourage transit use by employees after  
11 construction; information regarding transition of the current patient levels to 293  
12 patients and additional details regarding the use of the gymnasium by the  
13 community that was offered as an amenity in Stage 1.

14 We believe that the above-mentioned items can be resolved and  
15 therefore recommends that the Zoning Commission set the proposed second stage  
16 PUD for the subject property.

17 Thank you, Mr. Chairman.

18 MR. HOOD: Thank you, Ms. Brown-Roberts. Commissioners,  
19 we have a proposal asking us to set this down. Any questions of the Office of  
20 Planning? If not, I'll entertain a motion. Any concerns or questions?

21 MR. PARSONS: I would move we set this down for hearing. I'm  
22 pleased with the redesign of the parking area and the reduction in the footprint of the  
23 building. I think this is coming along well. I noticed in the OP report that they're  
24 requesting more details on the elevations and I would agree with that. At least the  
25 drawings contained in the booklet are a little sketchy.

26 And I'm not sure I understand this -- maybe I just haven't studied  
27 it enough, but apparently we're ramping up over the loading dock to get in?

28 MS. BROWN-ROBERTS: No.

29 MR. PARSONS: It's sheet LAPO 101 and I'm not sure I

1 understand what's happening.

2 MS. BROWN-ROBERTS: What I know happened was that the --  
3 all the mechanical and electrical systems were in the basement and what they're  
4 doing is taking that and building a separate building, an addition to the building, the  
5 original one in stage 1 that we saw, putting in an additional wing to house that. And  
6 because of the topography of the site, it looks a little lower than the rest of the  
7 building.

8 And what it does also is that because of its orientation, it sort of  
9 hides the loading area. I think it will serve the development well, because when the  
10 rest of the site is developed later, then at least they will be looking into the loading  
11 area.

12 MR. HILDEBRAND: It is interesting the way they got the  
13 graphics done on the drawing with the shrubbery shown as a tone, it looks as  
14 though it's a shadow line being cast by the roadway as opposed to an edge  
15 treatment. But I think those are just plantings along the edge of the road.

16 MR. PARSONS: Okay, thanks. I don't remember these fences  
17 that are shown on this plan. I guess these are fences around the complex?

18 MS. BROWN-ROBERTS: It was on the original plans. They did  
19 show fencing around. That's for security.

20 MR. HILDEBRAND: There's fencing around the entire complex  
21 and then there's an additional layer of fencing around that -- what would it be, the  
22 east wings?

23 MS. BROWN-ROBERTS: Yes. Because that's a secure wing.  
24 There's two levels of security.

25 MR. PARSONS: It looks like there's four fences delineated on  
26 this map. Is that right?

27 MS. BROWN-ROBERTS: Yes, actually that's what it looks like  
28 on the map. I could get some more information on that.

29 MR. PARSONS: It just seems excessive. I can't believe that

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 [www.nealrgross.com](http://www.nealrgross.com)

1 many fences are needed, but -- that's the only comments I have.

2 MR. HOOD: Any other comments, Commissioners?

3 MR. HILDEBRAND: I'd just like to second Commissioner  
4 Parsons' request for additional elevation information. I think at the scale that they're  
5 drawing the building, it's really hard to interpret what the actual finish material on the  
6 building is.

7 MR. HOOD: Did somebody make a motion?

8 MR. PARSONS: I did.

9 MR. HOOD: Okay, you made a motion. Who seconded? I'll  
10 second it.

11 All those in favor by using the sign of voting?

12 (Ayes.)

13 Any opposition?

14 Do we have a proxy from the Chair?

15 MS. SCHELLIN: She recused herself.

16 MR. HOOD: She sure did.

17 MS. SCHELLIN: Staff would record the vote 4 to 0 to 1 to  
18 approve setdown for Case No. 04-08. Commissioner Parsons moving,  
19 Commissioner Hood seconding, Commissioners Hildebrand and Jeffries in favor.  
20 Commissioner Mitten not voting, having recused herself and I just want to confirm  
21 that this would also be a contested case.

22 MR. HOOD: Contested case, yes.

23 MS. SCHELLIN: Thank you.

24 MR. HOOD: I want to thank the Office of Planning for waiting to  
25 give us the status report, so how we'll go to the Office of Planning, if they can give  
26 us a briefing.

27 MS. McCARTHY: Thank you, Mr. Vice Chair. The Office of  
28 Planning has a recommendation to the Commission. It is requesting that the  
29 Commission would consider holding a round table. You see Item 1 in the Office of

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 [www.nealrgross.com](http://www.nealrgross.com)

1 Planning Status Report is we have been looking at some possible zoning changes to  
2 deal with correctional facilities and emergency shelters in CM zones.

3 We are having participated in the administration's Community  
4 Best Residential Facilities Task Force and the Correctional Facilities Siting  
5 Commission. The Office of Planning is very aware of on the one hand serious  
6 problems that the government has -- I think it's something like 2500 felons per year  
7 are released from District prisons and there is evidence that their rate of integration  
8 into the community is far more -- is much higher and far more successful if they have  
9 a halfway house to be in for the last few months of their sentence, to get assistance  
10 in seeking jobs and sort of returning to the world outside prison walls. And we also  
11 know that it's very difficult to find locations for those facilities because of concerns on  
12 the part of neighborhoods about having correctional facilities and some similar  
13 issues occur with regard to emergency shelters.

14 So the Office of Planning has been looking at some possible  
15 zoning changes to accommodate those, but we feel strongly that before we move  
16 forward, it would be very useful for us and we think for the Commission, as well, to  
17 host a round table in which we would look at, we would invite people from the  
18 Bureau of Prisons, D.C. Office of Corrections, the Department of Human Services,  
19 DCRA, the ANC's Federation of Citizens Association and Civic Associations,  
20 Committee of 100 and other interested parties and ask them to come in for a round  
21 table and comment. We could propose a number of questions or list some  
22 alternatives and ask them to comment on those and I think it would then be very  
23 enlightening to have that review before we proceed with proposing something for  
24 setdown.

25 So that is the most important thing that we wanted to propose  
26 with regard to the Status Report.

27 And then everything else, I think is fairly self-explanatory. We  
28 expect to come back to you next month with setdown reports for the Mount Vernon  
29 Triangle overlay which is an overlay basically to assure retail uses at the ground

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

1 floor and some design standards for that area just north of downtown. And then  
2 we've been working with the Citizens in Takoma on a Takoma Park overlay as well.

3 And the only other thing that I would note is on the third page,  
4 under cases on-going, Case No. 3, open space zoning, Mr. Parsons, I believe, noted  
5 the last time that that had progressed from having no staff person assigned to  
6 having Mr. Lawson assigned and now I'm sure he'll be happy to note that there's a  
7 time table that's been provided as well which is spring of 2004.

8 So we are working with the -- or expect to be working with the  
9 NCPC staff on that we expect to come back to you, well, we said spring of 2004,  
10 maybe June, maybe a very late spring in 2004, but we do expect before your August  
11 recess to bring a case forward to you on open space zoning.

12 So I'd be happy to answer any questions that the Commission  
13 Members have.

14 MR. HOOD: Thank you, Ms, McCarthy. Colleagues?  
15 Commissioners, any questions?

16 MR. JEFFRIES: Yes, I do have a question. On the Mount  
17 Vernon Overlay, that's the Mount Vernon Action Agenda, is that the same?

18 MS. McCARTHY: Yes.

19 MR. PARSONS: It's with great excitement that I note -- the first  
20 thing I turn to, as you may know in these reports is to find where open space is  
21 which has been at the bottom for eight years. So I really look forward to this and  
22 anything I can do to assist Mr. Lawson, I'd be glad to do that. And my staff will be  
23 willing to help as well.

24 On the round table, we've recently been through a case in the  
25 BZA on this 1971 provision of temporary use of three year period. I assume you're  
26 familiar with that particular provision.

27 MS. McCARTHY: Yes.

28 MR. PARSONS: Is that going to be part of this analysis?

29 MS. McCARTHY: That is one of the issues that we would

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433

WASHINGTON, D.C. 20005-3701

www.nealrgross.com

1 definitely propose to look at.

2 MR. PARSONS: Good, because it's very problematic. Thank  
3 you.

4 MR. HOOD: Ms. McCarthy, let me just ask and I would agree  
5 with Commissioner Parsons, why I have a lot of concerns about the proposal here,  
6 but I'm also in tune to listening to the comments. As far as the round table, I see  
7 here you have here prior to June 25th, has that been discussed with trying to get  
8 that on board with staff?

9 MS. McCARTHY: I don't think we've talked about any particular  
10 dates, no.

11 MR. HOOD: Is there a reason that we need to do it prior to June  
12 24th or is that just the time line?

13 MS. STEINGASSER: It accommodated a July setdown.

14 MR. HOOD: Oh.

15 MS. STEINGASSER: That's all. It allowed us six weeks  
16 between today and that date, June 25th and it accommodated us getting our report  
17 in on time for July setdown.

18 MR. HOOD: Good. I'm hopeful we can move also on that issue  
19 as Mr. Parsons stated.

20 Any other comments? Thank you, Office of Planning.

21 MR. BASTIDA: Mr. Vice Chair? I would like to have a better  
22 idea about the type of questions -- is this being sponsored by the Zoning  
23 Commission or by the Office of Planning, what type of questions, how are we going  
24 to get a list to the invitees, how we are going to put the word out so we have the  
25 attendance that we would like to have and everybody -- and that has not been  
26 discussed. If the Commission could entertain a minute to ask the Office of Planning  
27 to address those questions, Staff would be very appreciative.

28 MR. HOOD: Okay, here's what I would do. I would ask that you,  
29 along with Office of Planning work that out off line. I don't think we need to talk

**NEAL R. GROSS**

COURT REPORTERS AND TRANSCRIBERS

1323 RHODE ISLAND AVE., N.W.

(202) 234-4433 WASHINGTON, D.C. 20005-3701 [www.nealrgross.com](http://www.nealrgross.com)

1 about all of the particulars here and I'm sure we could frame it how we did, like the  
2 campus plan round table, something to that effect because it was very efficient and  
3 worked very well.

4 Mr. Bastida, did you hear the -- did you hear my statement?

5 MR. BASTIDA: Somewhat. I was getting legal counsel.

6 (Laughter.)

7 MR. HOOD: You all can work it out.

8 MR. BASTIDA: Yes.

9 MR. HOOD: Okay.

10 MR. BASTIDA: I just wanted to know that that was the pleasure  
11 of the Commission and I will do that.

12 MR. HOOD: Any problems, gentlemen? Anything else, Mr.  
13 Bastida?

14 MR. BASTIDA: The Staff has no other matters, Mr. Vice Chair.

15 MR. HOOD: Thank you. This meeting is adjourned.

16 (Whereupon, at 7:22 p.m., the meeting was concluded.)